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8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 **MICHAEL WENTWORTH,** ) **NO. SA CV 16-744-VBF (KS)**  
11 )  
12 **Petitioner,** )  
13 **v.** ) **ORDER ACCEPTING FINDINGS AND**  
14 **R. MADDEN, Warden,** ) **RECOMMENDATIONS OF UNITED**  
15 **Respondent.** ) **STATES MAGISTRATE JUDGE**  
16 \_\_\_\_\_ )  
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18 Pursuant to 28 U.S.C. § 636, the Court has reviewed the Petition for Writ of Habeas  
19 Corpus (“Petition”), all of the records herein, and the Report and Recommendation of  
20 United States Magistrate Judge (“Report”), Petitioner’s Objections to the Magistrate  
21 Judge’s Report and Recommendation (“Objections”), and Petitioner’s exhibits, including a  
22 CD purporting to contain GPS information for Petitioner on December 27, 2011 (Dkt. No.  
23 48). Pursuant to 28 U.S.C. § 636(b)(1)(C) and FED. R. CIV. P. 72(b), the Court has  
24 conducted a *de novo* review of those portions of the Report to which objections have been  
25 stated.

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27 Petitioner makes various factual assertions in, and appends a panoply of exhibits to,  
28 his Objections, some of which are newly-presented. In addition, Petitioner raises several

1 new habeas claims that were not alleged in the Petition. A district court has discretion, but  
2 is not required, to consider evidence or arguments presented for the first time in objections  
3 to a report and recommendation. *See Brown v. Roe*, 279 F.3d 742, 744-45 (9th Cir. 2002);  
4 *United States v. Howell*, 231 F.3d 615, 621-22 (9th Cir. 2000). The Court declines to  
5 consider the habeas claims asserted for the first time in the Objections. The Court has  
6 exercised its discretion to consider Petitioner's new evidence, but concludes that it does not  
7 affect or alter the analysis and conclusions set forth in the Report.

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9 Having completed its review, the Court accepts the findings and recommendations  
10 set forth in the Report. Accordingly, IT IS ORDERED that:

11 (1) **petitioner's Motion for Evidentiary Hearing [Doc #37] is DENIED;**

12 (2) **the habeas corpus petition is DENIED;**

13 (3) this action is dismissed with prejudice; and

14 (4) separate final judgment shall be entered consistent with this Order and with the  
15 R&R.

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17 Dated: November 13, 2017



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18 VALERIE BAKER FAIRBANK  
19 UNITED STATES DISTRICT JUDGE  
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